IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.6208 OF 2005

Shri Rasaidevi Shikshan Prasarak Mandal. ...Petitioner.
Vs.
The State of Maharashtra & Ors. ...Respondents.
....
Mr.P. D. Dalvi for the Petitioner.
Mrs. M. P. Thakur, AGP for Respondent Nos.1 and 2.
Mr. M.L. Patil for Respondent No.4.
.....
CORAM : F.I. REBELLO, J. AND
DR.D.Y.CHANDRACHUD, J.
January 20, 2006.

P.C.

Rule. Heard forthwith.

2. It is the grievance of the Petitioner that they are a recognised school. As stay was granted against the recognition, they approached this Court by Writ Petition No.8712 of 2004. This Court after granting Rule, by a judgment dated 29th October 2004 quashed and set aside the said stay, consequent whereto, the Petitioner's recognition was accepted and they have commenced running of the school.

3. It appears that In the meantime, Respondent No.4 had also filed an application for recognition. This was objected to by

the Petitioner herein, by filing objections. One such objections is dated 16th November 2004. In response to the petition, reply has been filed on behalf of the Education Officer. We may gainfully refer to para 4 which reads as under :

> "With reference to para 8 of the Petition, I state and submit that it is true that the Petitioner has made a representation on 16/11/2004 after the receipt of order of this Honourable Court dt. 29/10/2004 but the District committee in view of the stay to the permission granted to the Petitioner's school had recommended the proposal of the respondent No.4 for grant of permission to open a Secondary School at Talgaon in its meeting on 27/10/2004 and hence the recommendation of the Petitioner dt. 16/11/2004 could not be attended to."

4. From the above, it would be clear that the representations as filed by the Petitioner herein, were not considered as the proposal of Respondent No.4 had been recommended by the District Committee on 27th October 2004 when there was a stay against the grant of recognition to the Petitioner. The order of this Court dated 29th October 2004 and the

representation by the Petitioner is subsequent to that judgment of 16th November 2004.

5. The Learned Counsel also points out that the Learned Division Bench of this Court in the matter of grant of recognition, has considered the issue which has been discussed in **Gramvikas Shikshan Prasarak Mandal, Sondoli vs. State of Maharashtra and others**, 2001(1) Mh.L. J. 776. The Respondent-State while granting recognition has also to bear in mind the ratio of the judgment of this Court.

6. On behalf of Respondent No.4, the learned Counsel submits that it is they who had filed an objection against the grant of recognition to the Petitioner and in these circumstances, they ought to have been made parties to that petition. The Petitioner though knowing that the objection was filed by Respondent No.4, yet chose not to join Respondent No.4 as the Respondent in their petition.

7. We have heard the learned Counsel for the parties and also submissions urged by them. In so far as the contention of

Respondent No.4 is concerned, once recognition is granted, unless there is a provision in the M.E. P.S. Act for cancellation of the recognition, the Respondent-State authorities would have no jurisdiction to cancel it unless it is a case of palpable fraud. Any person aggrieved and having locus standi to challenge that recognition can do so, if advised, by taking proper remedies against that decision including filing of the petition before this Court.

8. The fact, however, remains that the Petitioner-school was recognised and in respect of which stay has been granted. They would, therefore, have an interest in opposing the grant of recognition to any other school more so considering their contention that there are insufficient number of students for the purposes of running two schools in that particular area. The affidavit of the Government makes it clear that their objection was not considered as there was stay against recognition. Considering this fact, the petition is disposed of by issuing the following directions considering that Respondent No.4 is already running a school :

-(i) The Secretary for Secondary Education of the First Respondent to hear the representation made by the Petitioner herein and also hear Respondent No.4 on recognition granted to Respondent No.4. After hearing the parties to take appropriate decision not latter than 31st March 2006. The Petitioner to file a fresh representation before the Secretary, Secondary Education, apart from the representation already made, within two weeks from today, with the copy to Respondent No.4. Respondent No.4, if so advised, to file their reply before the Secretary, Secondary Education two weeks thereafter with the copy to the Petitioner. The Secretary thereafter to hear the parties and pass an appropriate order.

-(ii) Considering that Respondent No.4 is running a school and an interest of students who have been admitted should not be jeopardised, any decision taken by the Secretary would only be applicable from the Academic Year 2006-07.

9. Rule made absolute accordingly. There shall be no order as to costs.

(F.I. Rebello, J.)

(Dr. D.Y. Chandrachud, J.)